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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)	Confirmation No.: 7257
)	
Hidetaka HIYOSHI et al)	Examiner: SHTERENGARTS,
)	Samantha L.
)	
Serial No: 10/589,534)	
)	Group Art Unit: 1626
National Phase Filed: August 15, 2006)	
)	
For: SUSTITUTED SYM-TRIINDOLE)	

RESPONSE TO OFFICE ACTION OF OCTOBER 14, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

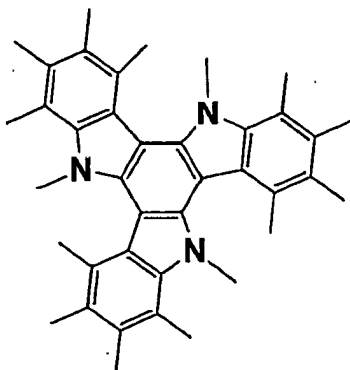
Sir:

Responsive to the Office Action of June 28, 2006, applicants, by their undersigned attorney, hereby elect Group I (claims 1-6).

As a species within Group 1, applicants, by their undersigned attorney, elect Sym-N-(n-hexyl)-5-bromotriindole which is the product of Example 1 at pages 76 and 77 of the substitute specification. Also see compound No. 5 in Table 1, [0137] of the substitute specification. The elected species is represented by formula 1, wherein R₁ and R₂ are hydrogen, R₃ is Br, R₄ is hydrogen and R₅ is n-hex.

Claim 1 encompasses the elected species and claim 6 encompasses a process for producing the elected species.

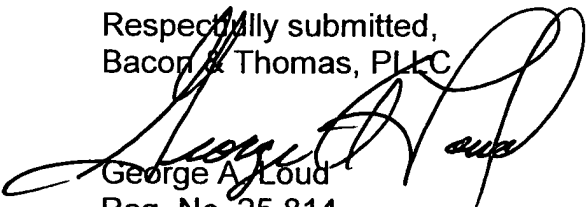
The requirement for election is respectfully traversed. As the examiner recognizes, the captioned application is a U.S. National Phase of a PCT application and as such, the rules pertaining to restriction in U.S. domestic applications do not apply and the test is that of "Unity of Invention" under PCT rules 3.1 and 3.2. It is respectfully submitted that the test for unity of invention is satisfied in that all of the claimed compounds and all compounds produced by the claimed processes share in common the following structural unit:



The above structural unit I is "a single general inventive concept" present in all pending claims. As stated in MPEP§1893.03(b) lack of Unity of Invention requires the examiner to explain "why there is no single general inventive concept." Thus, the test is whether or not there is a structural element common to all of the claimed compounds and products of the claimed methods and representing an inventive concept. Because there is a single general inventive concept, represented by the structure depicted above, it is respectfully submitted that the requirement for election is erroneous and should be withdrawn.

Respectfully submitted,
Bacon & Thomas, PLLC

Dated: November 14, 2008


George A. Loud
Reg. No. 25,814

Atty. Docket No.: HIYO3002/GAL

Customer Number: 23364

Bacon & Thomas, PLLC
625 Slaters Lane - Fourth Floor
Alexandria, VA 22314
(703) 683-0500